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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/868,254

06/15/2001

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RCA 89185

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EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

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DELIVERY MODE

04/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,254	<b>Applicant(s)</b> MORRISON ET AL.	
	<b>Examiner</b> REUBEN M. BROWN	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/19/2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer, (U.S. PG-PUB 2005/0138660), in view of Knudson, (US-PG-PUB 2005/0273819) & LeMole, (U.S. Pat # 6,009,410).

Considering claim 1, the amended claimed method for operating a video processing apparatus, such that the *'video processing apparatus operates in a video-operating mode and in at least one other mode, and wherein the video processing apparatus has an EPG operable in the video operating mode and not in the at least one other mode'*, is met by the disclosure of Boyer, (Fig. 2), which shows the standard operating mode of an EPG.

*'Operating the video processing apparatus in at least one other mode, comprising operating a computer application software program on the video processing apparatus, such that the computer application software program is capable of receiving messages'* is met by the disclosure of Boyer, that the user equipment, multimedia system 28, 3, 32 is enabled to support e-mail technology, (Fig. 1; Para [0042]-[0043]). The claimed computer application software program, reads on the e-mail service disclosed in Boyer. The amended claimed feature of the computer application software program having a display, reads on the display of Fig. 6.

*'Receiving an advertisement associated with a broadcast TV program, while the computer application software program is running'* is met by Fig. 6; Para [0051]-[0052], which shows an advertisement for a TV program being received via e-mail. *'Causing the advertisement*

*to be displayed by the computer application software program in an area of the display*', is also met by Boyer, Para [0051].

*'receiving a signal indicating a user selection of the advertisement' and 'providing a user selection display in response to the user selection of the advertisement, such that the user selection display comprises a listing of a plurality of user selectable options associated with the instant broadcast TV program'*, Boyer does not specifically show that the subscriber can select the advertised program, for tuning, from the reminder. Nevertheless Thomas, which is in the same field of endeavor, teaches once a subscriber selects an advertisement 54 for a TV program (Fig. 2), the user is provided with a screen 62 which provides a plurality of user selectable options, see Fig. 2; Para 0043. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Boyer in order to automatically allow the user to access the program that is the subject of the advertisement, at least for the known benefits of interactive programming.

As for the further claimed limitation that the *'advertisement is associated with a broadcast TV program, specified by a service provider'*, Thomas teaches that the advertisement 54 may be for an upcoming program, Fig. 2; Para [0043].

Considering claims 2 & 8-9, the e-mail technology of Boyer meets the claimed subject matter.

Considering claim 3-4, the claimed '*control information*' reads on the disclosure of Thomas that the screen 62 at least allows the user to order the program.

Considering claim 6 the claimed method steps for operating a video processing apparatus comprising steps that correspond with subject matter mentioned above on the rejection of claim 1, are likewise treated.

5. Claims 5, 7 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer, Thomas, and further in view of Casement, (U.S. Pat # 7,212,249).

Considering claims 5, 7 & 10, the screen 62 of Thomas only provides the user with the options of ordering, setting a reminder or canceling the instant advertised program. However Casement, which is in the same field of endeavor discloses that when a program is selected, the user is provided with pop-up that allows the user options to Automatically Tune, Record, or retrieve more Info about the program. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Boyer & Thomas, with the feature of providing a user with the options of at least tuning or recording the program, at least for the benefit of providing more user selectable options, which adds to the convenience of the system.

As for the feature of an option to access a web site from the advertisement, Official Notice is taken that it was well known in the art to provide web sites to a customer from a selected graphic or image on a TV screen. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Boyer, Thomas & Casement with a URL linked to advertisement, at least for the known advantage of providing the user with a wider range of information from the worldwide databases associated with the Internet.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Reynolds Teaches that when a use selects a trailer advertisement for a movie, a screen 91 displayed that provides the user with selectable options, Fig. 10.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/

Patent Examiner, Art Unit 2623